

Remarks

Claims 1-73 have been canceled. Claims 74 and 90 have been amended and new claims 107-112 have been added. Support for the amended claims can be found in paragraph [0015]. Support for amended claim 74 and for new claims 109-112 can be found in paragraph [0063]. Support for new claims 107-108 can be found in paragraph [0024]. Currently claims 74-112 are pending in the application.

Claim Rejections under 35 U.S.C. §103(a)

The Examiner has rejected claims 74-106 under 35 U.S.C. §103(a) as obvious in view of Fishbein (U.S. 6,576,659) and has stated that “where the general conditions of a claim are disclosed in the prior art, it is not inventive to discover the optimum or workable ranges by routine experimentation.”

Applicants respectfully disagree and submit that the present discovery was not made by routine experimentation. First, prior to the present invention, those skilled in the art did not have available to them an assay for identifying compounds that increase the expression of type I and/or type III procollagen by human fibroblasts or for determining the concentration of such a compound that would result in increased expression of type I and/or type III procollagen by human fibroblasts. Thus, determining the optimal range to achieve the increased expression of type I and/or type III procollagen necessitated the discovery of a new assay. Applicants submit that inventing a new assay to determine the claimed range does not constitute “routine experimentation.”

Second, until the present application, those skilled in the art did not even recognize the significance of procollagen expression with respect to its effect on wound healing. Hence, those skilled in the art would not have been motivated after reading Fishbein to attempt to invent an assay to identify compounds that increase the expression of procollagen as they did not even understand the effect of procollagen expression on wound healing. Further, those skilled in the art would not have been motivated to identify the dosage range needed to achieve increased expression of procollagen because the significance of increased procollagen expression was not appreciated.

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Accordingly, applicants request withdrawal of this ground of rejection.

Conclusion


It is believed that this amendment is fully responsive to the outstanding Office Action, and favorable action is respectfully requested. If a telephone conversation would further the prosecution of the present application, the Examiner is invited to contact the undersigned to resolve any issues that might remain. The Office is authorized to charge any fees necessary for the filing of this response to Kenyon's Deposit Account No: 11-0600.

Respectfully submitted,

KENYON & KENYON

Date: 9/29/05

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